

(3) Indian

The term “Indian” means a member of an Indian tribe, and includes individuals who are eligible for membership in a tribe, and the child or grandchild of such an individual.

(4) Indian tribe

The term “Indian tribe” means any Indian tribe, band, nation, or other organized group or community, including an Alaska Native Village Corporation or Regional Corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(5) Local educational agency

The term “local educational agency” means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State or such combination of school districts or counties as are recognized in a State as an administrative agency for the State’s public elementary schools or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

(6) Secretary

The term “Secretary” means the Secretary of the Interior.

(7) Tribal governing body

The term “tribal governing body” means, with respect to any school that receives assistance under this Act,¹ the recognized governing body of the Indian tribe involved.

(8) Tribal organization**(A) In general**

The term “tribal organization” means—

(i) the recognized governing body of any Indian tribe; or

(ii) any legally established organization of Indians that—

(I) is controlled, sanctioned, or chartered by such governing body or is democratically elected by the adult members of the Indian community to be served by such organization; and

(II) includes the maximum participation of Indians in all phases of the organization’s activities.

(B) Authorization

In any case in which a grant is provided under this chapter to an organization to provide services through a tribally controlled school benefiting more than one Indian tribe, the approval of the governing bodies of Indian tribes representing 80 percent of the students attending the tribally controlled

school shall be considered a sufficient tribal authorization for such grant.

(9) Tribally controlled school

The term “tribally controlled school” means a school that—

(A) is operated by an Indian tribe or a tribal organization, enrolling students in kindergarten through grade 12, including a pre-school;

(B) is not a local educational agency; and

(C) is not directly administered by the Bureau of Indian Affairs.

(Pub. L. 100-297, title V, § 5212, as added Pub. L. 107-110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2078.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (4), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

This Act, referred to in par. (7), is Pub. L. 100-297 and probably should be “this part”, meaning part B of title V of Pub. L. 100-297, known as the Tribally Controlled Schools Act of 1988, which is classified generally to this chapter. For complete classification of part B to the Code, see Short Title note set out under section 2501 of this title and Tables.

PRIOR PROVISIONS

A prior section 2511, Pub. L. 100-297, title V, § 5212, Apr. 28, 1988, 102 Stat. 394, defined terms, prior to repeal by Pub. L. 107-110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2063.

EFFECTIVE DATE

Section effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107-110, set out as a note under section 6301 of Title 20, Education.

CHAPTER 28—INDIAN EDUCATION PROGRAM**SUBCHAPTER I—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF INDIAN CHILDREN****§§ 2601 to 2606. Repealed. Pub. L. 103-382, title III, § 367, Oct. 20, 1994, 108 Stat. 3976**

Section 2601, Pub. L. 100-297, title V, § 5311, Apr. 28, 1988, 102 Stat. 395, related to policy declaration concerning academic needs of Indian students.

Section 2602, Pub. L. 100-297, title V, § 5312, Apr. 28, 1988, 102 Stat. 396; Pub. L. 100-427, § 15, Sept. 9, 1988, 102 Stat. 1610, related to grants to local educational agencies for education of Indian children.

Section 2603, Pub. L. 100-297, title V, § 5313, Apr. 28, 1988, 102 Stat. 398, related to permissible uses of Federal funds.

Section 2604, Pub. L. 100-297, title V, § 5314, Apr. 28, 1988, 102 Stat. 398; Pub. L. 100-427, § 16, Sept. 9, 1988, 102 Stat. 1610; Pub. L. 101-301, § 5(c), May 24, 1990, 104 Stat. 207, related to applications for grants and conditions for approval.

Section 2605, Pub. L. 100-297, title V, § 5315, Apr. 28, 1988, 102 Stat. 402; Pub. L. 100-427, § 17, Sept. 9, 1988, 102 Stat. 1611, related to payments to local educational agencies.

Section 2606, Pub. L. 100-297, title V, § 5316, Apr. 28, 1988, 102 Stat. 402, authorized appropriations for Indian education and permitted Secretary to reallocate funds.

SHORT TITLE

Section 5301 of Pub. L. 100-297 provided that part C (§§ 5301-5352) of title V of Pub. L. 100-297, enacting this

¹ See References in Text note below.

chapter, repealing sections 241aa, 241bb, 241cc to 241ff, 1211a, 1221f to 1221h, and 3385 to 3385b of Title 20, Education, and repealing provisions set out as notes under sections 241aa and 1411 of Title 20, could be cited as the “Indian Education Act of 1988”, prior to repeal by Pub. L. 103-382, title III, §367, Oct. 20, 1994, 108 Stat. 3976.

SUBCHAPTER II—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

§§ 2621 to 2624. Repealed. Pub. L. 103-382, title III, § 367, Oct. 20, 1994, 108 Stat. 3976

Section 2621, Pub. L. 100-297, title V, §5321, Apr. 28, 1988, 102 Stat. 403; Pub. L. 100-427, §18, Sept. 9, 1988, 102 Stat. 1612, related to improvement of educational opportunities for Indian children.

Section 2622, Pub. L. 100-297, title V, §5322, Apr. 28, 1988, 102 Stat. 406, related to special educational training programs for teachers of Indian children.

Section 2623, Pub. L. 100-297, title V, §5323, Apr. 28, 1988, 102 Stat. 407; Pub. L. 100-427, §19(a), Sept. 9, 1988, 102 Stat. 1612, provided for fellowships for Indian students.

Section 2624, Pub. L. 100-297, title V, §5324, Apr. 28, 1988, 102 Stat. 408; Pub. L. 100-427, §20, Sept. 9, 1988, 102 Stat. 1612; Pub. L. 101-301, §5(d)(2), May 24, 1990, 104 Stat. 208, authorized programs for gifted and talented Indian children.

SUBCHAPTER III—SPECIAL PROGRAMS RELATING TO ADULT EDUCATION FOR INDIANS

§ 2631. Repealed. Pub. L. 103-382, title III, § 367, Oct. 20, 1994, 108 Stat. 3976

Section, Pub. L. 100-297, title V, §5330, Apr. 28, 1988, 102 Stat. 410, related to improvement of educational opportunities for adult Indians. See section 7851 of Title 20, Education.

SUBCHAPTER IV—PROGRAM ADMINISTRATION

§§ 2641 to 2643. Repealed. Pub. L. 103-382, title III, § 367, Oct. 20, 1994, 108 Stat. 3976

Section 2641, Pub. L. 100-297, title V, §5341, Apr. 28, 1988, 102 Stat. 411; Pub. L. 100-427, §21, Sept. 9, 1988, 102 Stat. 1612, related to establishment of Office of Indian Education within Department of Education. See section 3423c of Title 20, Education.

Section 2642, Pub. L. 100-297, title V, §5342, Apr. 28, 1988, 102 Stat. 412; Pub. L. 100-427, §22, Sept. 9, 1988, 102 Stat. 1613, established National Advisory Council on Indian Education.

Section 2643, Pub. L. 100-297, title V, §5343, Apr. 28, 1988, 102 Stat. 413, authorized appropriations for administration of Indian education programs. See section 7882 of Title 20, Education.

SUBCHAPTER V—MISCELLANEOUS

§ 2651. Repealed. Pub. L. 103-382, title III, § 367, Oct. 20, 1994, 108 Stat. 3976

Section, Pub. L. 100-297, title V, §5351, Apr. 28, 1988, 102 Stat. 413; Pub. L. 100-427, §23, Sept. 9, 1988, 102 Stat. 1613, defined terms for purposes of this chapter. See section 7881 of Title 20, Education.

CHAPTER 29—INDIAN GAMING REGULATION

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§ 2701. Findings

The Congress finds that—

(1) numerous Indian tribes have become engaged in or have licensed gaming activities on Indian lands as a means of generating tribal governmental revenue;

(2) Federal courts have held that section 81 of this title requires Secretarial review of management contracts dealing with Indian gaming, but does not provide standards for approval of such contracts;

(3) existing Federal law does not provide clear standards or regulations for the conduct of gaming on Indian lands;

(4) a principal goal of Federal Indian policy is to promote tribal economic development, tribal self-sufficiency, and strong tribal government; and

(5) Indian tribes have the exclusive right to regulate gaming activity on Indian lands if the gaming activity is not specifically prohibited by Federal law and is conducted within a State which does not, as a matter of criminal law and public policy, prohibit such gaming activity.

(Pub. L. 100-497, §2, Oct. 17, 1988, 102 Stat. 2467.)

SHORT TITLE

Section 1 of Pub. L. 100-497 provided: “That this Act [enacting this chapter and sections 1166 to 1168 of Title 18, Crimes and Criminal Procedure] may be cited as the ‘Indian Gaming Regulatory Act.’”

§ 2702. Declaration of policy

The purpose of this chapter is—

(1) to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments;

(2) to provide a statutory basis for the regulation of gaming by an Indian tribe adequate to shield it from organized crime and other corrupting influences, to ensure that the Indian tribe is the primary beneficiary of the gaming operation, and to assure that gaming is conducted fairly and honestly by both the operator and players; and

(3) to declare that the establishment of independent Federal regulatory authority for gaming on Indian lands, the establishment of Federal standards for gaming on Indian lands, and